IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.V.K.BALI

WEDNESDAY, THE 29TH NOVEMBER 2006 / 8TH AGRAHAYANA 1928

AR.No. 23 of 2005()

APPLICANTS

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1. JOSEPH T.OLICKAL,
   S/O. THOMAS OLICKAL, AGED 54 YEARS,
   RESIDING AT A-201, VARIDMEN APARTMENT,
   MAYUR VIHAR, PHASE 1, NEW DELHI-110 091.

2. THOMAS T. OLICKAL, S/O. THOMAS OLICKAL,
   AGED 42 YEARS, RESIDING AT A-501, BIRCHWOOD,
   HIRANDINDINI GARDENS, POWAL, MUMBAI,
   MAHARESHTRA-400 076

BY ADV. SRI.M.RAMESH CHANDER

RESPONDENT:

S.VENKETESAN, SRI.TEXTILES
7 K.N.K.ROAD, KARINGAL PALAYAM, ERODE -3.

BY ADV. SRI.R.D.SHENOY (SR.)
SRI.RAJAKRISHNAN. K
SRI.FRANKLIN ARACKAL

THIS ARBITRATION REQUEST HAVING BEEN FINALLY HEARD ON 29/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.K. BALI, C.J.

A.R.No.23 of 2005

Dated this the 29th day of November, 2006.

ORDER

V.K.Bali,C.J.(Oral)

The prayer in this application filed under Section 11 of the Arbitration and Conciliation Act, 1996 is for appointment of an Arbitrator. In response to the notice issued by this Court the respondent has entered appearance and filed a counter affidavit in which it has been stated that for the same cause of action the petitioners have already filed a civil suit O.S.No.1798 of 2002 in the Sub Court at Namakkal, Tamil Nadu. This factual position is not disputed by the counsel for the petitioner. In view of the uncontroverted position as mentioned above, this petition is to be dismissed. So ordered.

V.K.BALI,
Chief Justice.

vns.